

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 13-34977

Troy J. Clement,

Debtor.

**NOTICE OF MOTION AND MOTION FOR
TURNOVER OF PROPERTY**

To: The debtor and other entities specified in Local Rule 9013-3

1. John A. Hedback, trustee for the bankruptcy estate, (Trustee) by the undersigned attorneys, moves the court for the relief requested below and gives notice of hearing.
2. The court will hold a hearing on this motion at 10:00 a.m., on February 6, 2014, in Courtroom No. 2C, at the United States Courthouse, at 316 North Robert Street, St. Paul, Minnesota.
3. Any response to this motion must be filed and served not later than February 1, 2014, which is five days before the time set for the hearing (including Saturdays, Sundays, and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this chapter 7 case was filed on October 15, 2013. The case is now pending in this court.
5. This motion is brought pursuant to Section 542 of the Bankruptcy Code and Local Bankruptcy Rules 6072 and 9013.
6. During the course of the administration of the bankruptcy estate, the Trustee asked the Debtor to turn over the following property and/or information:
 - a. Copies of the bank statements for Clement Data Services, LLC that covers the period from September 15, 2013 through and including the date of the filing of the bankruptcy; and
 - b. Copies of Debtor's bank statements for his accounts at USAA for the months of August and September 2013.

The foregoing documents and information are hereinafter referred to as Property.

6. The Debtor has failed to turn over the Property.
7. The attorney for the Debtor has provided no response.
8. The Property constitutes property of the bankruptcy estate.
9. Trustee's efforts to recover the Property have been fruitless.
10. Trustee also requests that the Court award attorney's fees in the amount of \$300.00. Trustee has previously given notice to Debtor that if this motion was filed such a request would be made.
11. Pursuant to Local Rule 1209, Trustee does not submit a separate memorandum of law in support of this motion.

WHEREFORE, Trustee moves the court for an order as follows:

- (A) Directing Debtor to turn over the Property on or before the date specified in the Court's order;
- (B) Awarding Trustee attorney's fees in the amount of \$300.00 payable from the Debtor; and
- (C) Granting any other relief the Court deems just and proper.

Dated: January 15, 2014

Hedback, Arendt & Carlson PLLC
/e/ John A. Hedback
John A. Hedback, #142438
2855 Anthony Lane South, Suite 201
St. Anthony, MN 55418
(612) 436-3280
Attorney for the Trustee

Verification. I, John A. Hedback, Trustee, named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on January 15, 2014

/e/John A. Hedback

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 13-34977

Troy J. Clement,

Debtor.

UNSWORN DECLARATION FOR PROOF OF SERVICE

The undersigned, being an employee of Hedback, Arendt & Carlson, PLLC, attorneys licensed to practice law in this Court, with offices located at 2855 Anthony Lane South, Suite 201, St. Anthony, Minnesota, declares that on the date indicated below, I served the following:

1. Notice of Motion and Motion for Turnover of Property;
2. Proposed Order; and
3. Unsworn Declaration for Proof of Service

on each of the entities named below by delivering to each of them by mail (unless otherwise indicated) a copy thereof at their addresses which are as follows:

Debtor
Troy J. Clement
3165 Copper Oaks Trail
Woodbury, MN 55125

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: _____/e/ John Hedback_____

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 13-34977

Troy J. Clement,

**ORDER REQUIRING TURNOVER
OF PROPERTY**

Debtor.

This case came before the Court for hearing on the motion of the Trustee. Appearances were noted on the record. Based on the motion, argument(s) of counsel, and the file in this case,

IT IS HEREBY ORDERED:

1. The Debtor and his agents shall turn over the following property of the estate to the Trustee:
 - a. Copies of the bank statements for Clement Data Services, LLC that covers the period from September 15, 2013 through and including the date of the filing of the bankruptcy; and
 - b. Copies of Debtor's bank statements for his accounts at USAA for the months of August and September 2013.
2. The Debtor shall comply with Term 1 of this order within 15 days from the date of this Order.
3. The Debtor shall also pay John A. Hedback \$300.00 as and for attorney's fees awarded in bringing this motion.

BY THE COURT

Dated:

Katherine A. Constantine
United States Bankruptcy Judge

NOTICE TO DEBTORS: You are hereby advised that failure to comply with this Order may be grounds for denial or revocation of a discharge in this case under Section 727(a)(6)(A) of the Bankruptcy Code.